

IN THE SUPREME COURT OF THE STATE OF NEVADA

NOLA HARBER, AS DISTRIBUTION  
TRUSTEE OF THE ERIC L. NELSON  
NEVADA TRUST DATED MAY 30, 2001,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
FRANK P. SULLIVAN, DISTRICT  
JUDGE,

Respondents,

and

ERIC L. NELSON AND LYNITA S.  
NELSON, INDIVIDUALLY; AND LSN  
NEVADA TRUST DATED MAY 30, 2001,  
Real Parties in Interest.

No. 63545

**FILED**

JUL 10 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. Malone  
DEPUTY CLERK

*ORDER DIRECTING SUPPLEMENT TO PETITION  
AND DIRECTING ANSWER*

This is an original petition for a writ of prohibition challenging provisions of a district court divorce decree that direct the transfer of certain assets from the Eric L. Nelson Nevada Trust. Petitioner has also filed an emergency motion for a stay of those provisions of the divorce decree.

It is petitioner's burden to demonstrate that this court's extraordinary intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Writ relief is generally not available when the petitioner has a plain, speedy, and adequate remedy at law. *See NRS 34.330; Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). The right to

appeal is generally considered an adequate legal remedy that precludes extraordinary relief. *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. A divorce decree is appealable as a final judgment when it finally resolves all issues pertaining to the dissolution of the parties' marriage, including the division of property. *See Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (recognizing that a final judgment is one that disposes of all issues presented and leaves nothing for the court's future consideration, except for certain post-judgment issues).

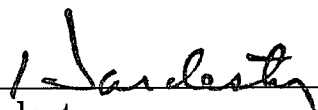
Petitioner contends that extraordinary relief is appropriate because an adequately legal remedy is not available. Specifically, petitioner asserts that an appeal cannot immediately be taken from the divorce decree because of a pending motion in the district court to alter or amend the judgment under NRCP 59. Further, petitioner acknowledges that the divorce decree is not a final judgment because the district court has not disposed of all of the assets, including the disposition of the Wyoming Downs property, which also appears to be the subject of the NRCP 59 motion. Nevertheless, petitioner has not established why an appeal from the final divorce decree, once it is entered, is not an adequate remedy in the ordinary course of the law. It seems that petitioner is essentially seeking to prevent enforcement of what appears to be an interlocutory order. *See Gojack v. Second Judicial Dist. Court*, 95 Nev. 443, 596 P.2d 237 (1979) (holding that the trial court lacked authority to enter a final divorce decree without contemporaneously disposing of the parties' community property); *but see Smith v. Smith*, 100 Nev. 610, 691 P.2d 428 (1984) (recognizing an exception to the rule prohibiting bifurcated divorce proceedings where the parties so stipulate). This court

discourages such piecemeal review. *See Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 444, 874 P.2d 729, 733 (1994).

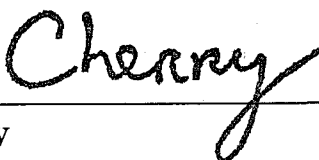
Accordingly, petitioner shall have until Monday, July 15, 2013, at 4 p.m. to file and serve a supplement to the petition demonstrating why extraordinary relief is warranted at this time, given that the issues can ultimately be raised on appeal from a final judgment. The real parties in interest shall have 11 days after the supplement is served to file and serve an answer to the petition, as supplemented. We defer ruling on petitioner's motion for a stay at this time.

All documents submitted in response to this order shall be filed and served personally, electronically, or by facsimile transmission with the clerk of this court in Carson City. *See* NRAP 2; NRAP 25(a)(2)(B)(i); NRAP 25(a)(4). For purposes of this petition, we suspend application of NRAP 25(a)(2)(B)(ii)-(iv) and NRAP 26(b)(1)(B).

It is so ORDERED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Frank P. Sullivan, District Judge  
Solomon Dwiggin & Freer  
Radford J. Smith, Chtd.  
Dickerson Law Group  
Eighth District Court Clerk